IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 23371 of 2004

Between:

Mica Fab India Private Limited, Goginenipuram

Represented by its Managing Director, c.Suresh Kumar Reddy, S/o C.Pattabhi Rami Reddy, aged 52 years, r/o Gudur Town & Mandal, Nellore District.

..... PETITIONER

AND

1. The Additional Commissioner (CT) Legal (FAC), Government of A.P., Hyderabad.
2. The Deputy Commissioner, Commercial Taxes, Nellore.
3. Commercial Taxes Officer, Naidupet, Nellore.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying

that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction or writ more appropriately writ of Mandamus to declare the order passed by the 1st respondent in his proceedings CCT's ref. No.LV(i)/2254 to 2256/2004 dated 23.10.2004 rejecting the stay pending the appeal before the Sales Tax Appellate Tribunal against the order passed by 2nd respondent dated 12.4.04 as illegal, arbitrary, unjust and set aside the said order and consequently stay the operation of order of 2nd respondent in his proceedings No.RV.No.26/2003-04/A6 dated 12.04.04 pending disposal of appeal before the Sales Tax Appellate Tribunal, Hyderabad and pass such other order or orders that the Honourable Court deem fit and proper in the circumstances of the case in the interest of justice.

Counsel for the Petitioner: P.SRIDHAR REDDY.

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following :

O R D E R (Per MHSA,J)

Heard the learned counsel for respective parties.

2 . The prayer in the writ petition is with respect to order dated 23.10.2004 rejecting stay of collection of disputed tax in three appeals for three assessment years.

3 . When the matter was moved before the Court on 16.12.2004, it was noticed that the writ petition is filed only with respect to the assessment year 1999-2000. Therefore, the petitioner was directed

to pay deficit court fees and was also directed to bring on record the assessment orders and revisional orders pertaining to three years in respect whereof the prayer was made by the petitioner.

4. It appears that deficit court fees has been paid and also additional material papers have been filed by the petitioner.

5. The order under challenge is a common order pertaining to three assessment years. The prayer was for stay of collection of the disputed tax arising out of revisional proceedings of the Deputy Commissioner (C.T.), pending disposal of the three appeals filed before the learned Sales Tax Appellate Tribunal. Learned Additional Commissioner (C.T.) dismissed the stay application. It is against that order that the instant writ petition is filed.

6. We are inclined to dispose of the instant writ petition with certain usual orders that are being passed by this Court in similar matters.

7. Accordingly it is directed that if the petitioner deposits fifty per cent of the disputed tax for each of the assessment years i.e., 1999-2000, 2000-01 and 2001-02, giving credit to the amounts already deposited, the three appeals pending before the learned Sales Tax Appellate Tribunal shall be heard on their own merits without insisting upon the payment of the balance fifty per cent disputed tax in the respective appeals.

8. It is hereby directed that the fifty per cent of the disputed tax directed to be deposited as above in respect of each assessment year pertaining to the respective appeals, shall be paid by the petitioner within four weeks from date hereof.

9. With the directions as above, writ petition is accordingly disposed of. No costs.

M.H.S.ANSARI,J

ELIPE DHARMA RAO,J

AVS

DATE:30.12.2004

Note: C.C. on priority basis.

B/O

To

1. The Additional Commissioner (CT) Legal (FAC), Government of A.P., Hyderabad.
2. The Deputy Commissioner, Commercial Taxes, Nellore.

3. Commercial Taxes Officer, Naidupet, Nellore.

4. Two C.Cs. to G.P. for Commercial Tax, High Court of

A.P. Buildings, Hyderabad (O.U.T.).

5. Two C.D. copies.